

REC D-114

REGULATORY AUTH.

OFFICE OF THE
EXECUTIVE SECRETARY

DOCKET NO. 99-00909

MOTION TO RECONSIDER THE

INTERVENORS' REQUEST TO ADD A WITNESS

the foregoing grounds, Applicants and Joint Petitioners respectfully request that the Authority reconsider and deny the request of Time-Warner and TCTA.

1. At the July 6, 2000 Pre-Hearing Conference, the parties did clearly discuss and affirm the order of proof. Mr. Stinson was identified as a rebuttal witness for the Applicant and Joint Petitioner. A copy of the excerpt from the transcript of the Pre-Hearing Conference is attached to this Motion as Exhibit A.

2. At the Conference, the Pre-Hearing Officer noted that, Time-Warner and TCTA had listed Alex Lowe, Larry Thompson, William Barta and Rushton Sedberry as their witnesses. The Pre-Hearing Officer asked Mr. Welch, counsel for Time-Warner and TCTA, if this order was accurate. Mr. Welch responded that since the Applicant and Joint Petitioners were going to call Mr. Thompson and Mr. Lowe in their case-in-chief that he would anticipate "being able to cross-examine them at that time." Thus, Time-Warner and TCTA decided that calling these two witnesses in their direct proof was unnecessary due to the decision of the Applicant and Joint Petitioner to include these two witnesses in their case-in-chief. See Exhibit A.

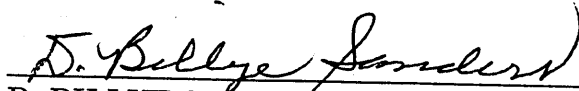
3. Mr. Welch went on to confirm the order of direct proof for Time-Warner and TCTA. Mr. Welch stated that their "witnesses on direct proof would be Sedberry and Barta and I guess in that order." See Exhibit A. No mention was made concerning Wade Stinson.

4. Furthermore, on April 27, 2000, Time-Warner and TCTA deposed Mr. Stinson. The Intervenors therefore had the opportunity to ask Mr. Stinson questions concerning his involvement with the telecom project, and were well aware prior to the July 6 Pre-Hearing Conference of Mr. Stinson's involvement with the telecom project. At no time since the April 27, 2000 deposition did the Intervenors request the ability to further question Mr. Stinson or to add him as a witness to their direct proof.

5. The Applicant and Joint Petitioners have the right to put on their case in the order and manner that they see fit, in accordance with the rules and regulations of the Authority. The Applicant and Joint Petitioners have prepared their case based upon the order of proof that was agreed to at the July 6, 2000 Pre-Hearing Conference.

6. Mr. Stinson will be called as a rebuttal witness and therefore is available for cross examination by Time-Warner and TCTA. Denial of the request to add Mr. Stinson will cause no harm to Time-Warner and TCTA but rather will merely require them to live by the previously agreed to order of proof.

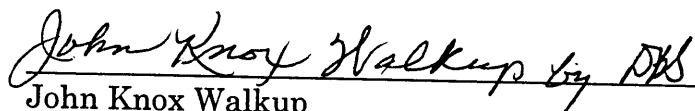
Based upon the foregoing, the Applicant and Joint Petitioners respectfully request the Authority to reconsider its decision to grant the request of Time-Warner and TCTA to add Wade Stinson to their order of direct proof.



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CERTIFICATE OF SERVICE

I, D. Billye Sanders, hereby certify that on this 15th day of September, 2000,
a true and correct copy of the foregoing was delivered by hand delivery, facsimile, or
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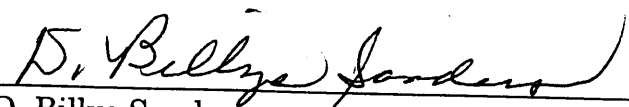
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